

this offering because to provide the same service they must pay BellSouth's excessive, usage-sensitive intraLATA access charges (which are often higher than the rates BellSouth is effectively charging its end users).²⁰

The Commission will undoubtedly continue to resist the RBOCs' anticompetitive efforts to gain long distance entry while they still maintain iron grips on local facilities and markets. The reality, however, is that RBOCs will continue in their attempts to gut the Commission's authority in this area and GTE and SNET will continue in their largely unregulated efforts to undermine competition in their regions.

In these circumstances, the only appropriate course is to take steps to safeguard competition on other fronts, and among the most important such steps the Commission can take is to identify and implement additional access charge reforms necessary to meet its stated policy of moving access charges toward competitive market levels. Indeed, the Commission must take immediate action if it is to "fulfill Congress's pro-competitive mandate," Access Reform Order ¶ 42,²¹ and prevent a replay of the events that led the D.C. Circuit to label the Commission's then 13-year "transition" to cost-based rates "arbitrary and capricious" and to order the Commission to "move expeditiously" to achieve its long-stated goal of cost-based rates. See Competitive Telecomms. Ass'n, 87 F.3d at 532, 536.

²⁰ Because both Georgia and Florida have authorized BellSouth to continue to impose intrastate access charges on unbundled network elements purchasers, new entrants cannot bypass BellSouth's exchange access services to circumvent this anticompetitive pricing strategy.

²¹ See also Access Reform Order ¶ 42 ("We conclude, consequently, that competition or, in the event that competition fails to develop, rates that approximate the prices that a competitive market would produce, best serve the public interest").

D. A Rulemaking Proceeding Will Permit the Commission To Consider A Number Of Possible Mechanisms For Reducing Access Charges To Competitive Levels That Could Be Implemented Quickly And Effectively.

At the highest level of generality, the solution to the access charge problem is simple: reduce excessive, anticompetitive access charges to the same long-run incremental costs that incumbents incur when they provide themselves access to local facilities. One obvious mechanism for accomplishing that result is to accelerate the filing of forward-looking cost studies that the Commission has already ordered incumbents to submit. Indeed, the Commission has already put incumbents on notice that it would implement that approach "if competition is not developing sufficiently for [its] market-based approach to work." Access Reform Order ¶ 267. As demonstrated above, that triggering event has certainly been established.

This is the approach endorsed by the Consumer Groups, and the Commission should notice for comment whether the materially changed circumstances adversely affecting the prospects for large scale network element competition justify moving the date for the prescriptive "backstop" up to July 1, 1998. Petition at 3 ("Access charges must be prescribed to cost-based rates in order to ensure that captive telephone consumers are not subjected to bloated rates while yet another set of local competition plans are contemplated and tested"). Incumbents will certainly complain that expediting cost study submissions is unduly burdensome, and, if that approach is implemented, incumbents will just as surely attempt to derail the process with the same obfuscation tactics they have used in state commission arbitration proceedings. A rulemaking proceeding will afford the Commission an opportunity to craft appropriate measures to deal with such recalcitrance.

The Commission will also have an opportunity to evaluate many different mechanisms designed to reduce access charges toward competitive levels. For example, the Commission could seek comment on a prescriptive backstop that would determine forward-looking access rates by reinitializing price caps to reflect forward-looking rates for the handful of key carrier access elements that account for virtually all incumbent LEC access revenues, as determined by (i) state commissions pursuant to Section 252 arbitrations,²² or (ii) the cost model selected by the Commission in its universal service proceeding.²³ Such an approach would be eminently workable and would not impose undue burdens on the Commission, the incumbent LECs, or new entrants. Further, price cap LECs have already been required to submit access cost studies by February 8, 2001, see Access Reform Order ¶ 48, and they must submit comparable costs studies pursuant to the Universal Service Order by 1998, id. Thus, the Commission itself must evaluate much if not all of the same information contained in the studies that are submitted in the universal service context.

In addition, under this proposal the Commission's separate market-based reforms would remain intact. See Access Reform Order ¶¶ 14, 49. Thus, there is no risk that incumbent LECs could be placed at a competitive disadvantage vis-à-vis entrants in the local telecommunications markets. Indeed, this proposal would actually eliminate one incentive for incumbent LECs to

²² A not insignificant disadvantage of this approach is that not all states have adopted truly forward-looking network elements rates. Still, it is better to provide consumers with some cost savings rather than none at all and to reduce anticompetitive access charge barriers, even if they are not eliminated.

²³ Previously the Commission had expressed concern about reliance on a cost model because one might not be available for a year or more. Access Reform Order ¶ 45. The ensuing months and the progress made in the development of a universal service cost model have eliminated this issue.

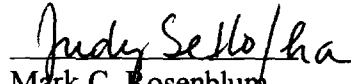
engage in anticompetitive behavior and thereby continue earning supracompetitive access charges. As the past two years have amply demonstrated, the current access regime encourages incumbents to obstruct entry at every opportunity.

CONCLUSION

The Commission should issue forthwith a notice of proposed rulemaking seeking expedited comment on revisions to the Commission's existing access strategy and promptly adopt the necessary reforms.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Scott M. Bohannon, do hereby certify that on this 30th day of January, 1998, I caused a copy of the foregoing Comments of AT&T Corp. In Support of Petition for Rulemaking to be served upon each of the parties listed on the attached Service List by U.S. First Class mail, postage prepaid.

A handwritten signature in cursive script, reading "Scott M. Bohannon", written over a horizontal line.

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